



# County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA  
Chief Executive Officer

April 14, 2014

To: Supervisor Don Knabe, Chairman  
Supervisor Gloria Molina  
Supervisor Mark Ridley-Thomas  
Supervisor Zev Yaroslavsky  
Supervisor Michael D. Antonovich

From: William T Fujioka  
Chief Executive Officer

Board of Supervisors  
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Second District

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Fifth District

## SACRAMENTO UPDATE

### Executive Summary

This memorandum contains reports on the following:

- **Pursuit of County Position to Oppose SB 1328 (Hill).** This bill would: 1) authorize the California Department of Food and Agriculture (CDFA) to establish a uniform policy consistent with Federal law relating to the use of dry tare weight or wet tare weight methods of measurement for the retail sale of meat, poultry, and fish products; 2) establish a 98 percent compliance rate for point-of-sale system accuracy requirements for grocery stores that have a policy to refund the amount of the product or provide the product free of charge in the event that the amount charged is greater than the amount advertised, posted, marked, displayed, or quoted; and 3) authorize the CDFA to impose an additional assessment for the license of a business that uses a point-of-sale system for purposes of carrying out the provisions regulating the use of point-of-sale systems. Therefore, unless otherwise instructed by the Board, consistent with existing policies to: 1) support legislation to protect consumers by providing increased and more reliable product quantity and price information to facilitate value comparisons and transaction accuracy; and 2) support proposals to allow or grant local governments the right to adopt local consumer protection standards and enforcement mechanisms, **the Sacramento advocates will oppose SB 1328.**

*"To Enrich Lives Through Effective And Caring Service"*

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- **Update on Legislation of County Interest. AB 2415 (Ting)** would, beginning September 1, 2015, require a property tax agent to register biannually with the Secretary of State before representing a taxpayer before a county official.

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### **Pursuit of County Position on Legislation**

**SB 1328 (Hill)**, which as introduced on February 21, 2014, would: 1) authorize the California Department of Food and Agriculture (CDFA), by regulation, to establish a uniform policy consistent with Federal law relating to the use of dry tare weight or wet tare weight methods of measurement for the retail sale of meat, poultry, and fish products; 2) establish a 98 percent compliance rate for point-of-sale systems, modeled after the accuracy requirements described in the National Institute of Standards and Technology Handbook 130, for grocery stores that have a policy to refund the amount of the product or provide the product free of charge in the event that the amount charged is greater than the amount advertised, posted, marked, displayed, or quoted; and 3) authorize the Secretary of CDFA, by regulation, to impose an additional assessment of up to \$2 for the license of a business that uses a point-of-sale system, to be deposited in the California Department of Food and Agriculture Fund, for purposes of carrying out the provisions regulating the use of point-of-sale systems.

Under existing law, the California Department of Food and Agriculture has general supervision of weights and measures, and weighing and measuring devices sold or used in the State, and provides that the duty of enforcing and carrying out those provisions is vested with the Secretary of Food and Agriculture and in each sealer acting under the supervision and direction of the Secretary. Current law makes it unlawful for any person to sell poultry or smoked, fresh, frozen, cooked, dried, or pickled meats or fish other than by weight determined at the time of sale on a scale properly sealed in accordance with specified requirements. Existing law specifies that fat added to fresh meat or roasts shall not be considered tare weight if the package is labeled as containing added fat. A violation of the provisions, or any regulations adopted pursuant to those provisions, regulating weights and measurements is a crime.

Existing law also provides the criteria and methodology by which local officials are to measure and verify the accuracy of a point-of-sale system used by retail establishments as a means for determining the price of an item being purchased by a consumer, and authorizes the board of supervisors of a county, by ordinance, to charge a point-of-sale inspection fee or an annual registration fee for the county's costs for inspection and testing. Current law authorizes a city or county to license any kind of business, unless prohibited by law, and authorizes the city or county to levy license fees.

The Agricultural Commissioner/Weights and Measures (ACWM) reports that the County has been very active in ensuring the accuracy of point-of-sale (POS) systems to protect consumers from retail overcharges. In 2002, the County sponsored **AB 2732 (Chapter 818, Statutes of 2002)** which requires that all cash registers equipped with electronic POS systems have pricing displays which are visible to consumers. The County also enacted an ordinance in 2002 which established a system to identify, register, and inspect POS stations in retail locations in the County and increased the number of inspectors monitoring scanner accuracy. The result has been a comprehensive price verification program which inspects retail establishments annually to test the accuracy of their POS systems. In the years since the ordinance's implementation, the ACWM has successfully enforced strict application of State law prohibiting overcharges on any commodity, dis-incentivizing continued neglect or fraudulent practices.

The Agricultural Commissioner/Weights and Measures indicates that SB 1328 would weaken POS inspection and enforcement. Current law requires 100 percent compliance on all items scanned in a random sample of 50 items and provides that enforcement action may be taken by a county that has adopted a POS accuracy ordinance for any item not in compliance, eliminating any allowance for cost overruns. By requiring that compliance rates be modeled after the accuracy requirements set forth in the National Institute of Standards and Technology Handbook 130, which requires only 98 percent accuracy on a 100-item sample, SB 1328 would allow a 2 percent tolerance for POS inaccuracy. The result would be allowance of a number of overcharges and diminished consumer and fair-competition protections. The bill would also create a conflict with current law by preventing the county sealer from taking action on overcharges in some cases.

This office and the Agricultural Commission/Weights and Measures oppose SB 1328. Therefore, unless otherwise directed by the Board, consistent with existing policy to: 1) support legislation to protect consumers by providing increased and more reliable product quantity and price information to facilitate value comparisons and transaction accuracy in sales or purchases of any commodities or materials according to weight, measure or count; and 2) support proposals to allow or grant local governments the right to adopt local consumer protection standards and enforcement mechanisms, **the Sacramento advocates will oppose SB 1328**. Opposition to SB 1328 is also consistent with the County's previous sponsorship of AB 2732 of 2002.

SB 1328 is sponsored by the California Grocers Association. The bill is opposed by the California Agricultural Commissioners and Sealers Association.

### **Legislation of County Interest**

**AB 2415 (Ting)**, which as amended on April 3, 2014, would, beginning September 1, 2015, require a property tax agent to register biannually with the Secretary of State before representing a taxpayer before a county official.

Under current law, as it relates to annual property valuation and taxation, a taxpayer is authorized to file an application for a reduction in a property tax assessment with a county's assessment appeals board.

AB 2415 would require a property tax agent, defined as an individual employed to communicate directly or through agents on behalf of a taxpayer with a county official for the purpose of influencing official action related to property tax valuations, to register biannually with the Secretary of State and would impose a \$250 registration fee. Additionally, this bill would:

- prohibit a property tax agent from representing a taxpayer before any county official without first being registered and issued a registration number by the Secretary of State;
- prohibit a person from registering, renewing their registration, or providing services as a property tax agent if that person has been convicted of a felony or any other criminal offense involving perjury, fraud, breach of trust, or moral turpitude, or has been disbarred from practice as an attorney, certified public accountant, or actuary;
- require the Secretary of State to conduct a background check on each property tax agent applicant;
- require the Secretary of State to post a list of registered property tax agents and a list of property tax agents who have been fined or whose license has been revoked, on its website;
- prohibit property tax agents from engaging in fraudulent and other activities, including attempting to represent a taxpayer without authorization; claiming the ability to improperly obtain special consideration from county officials; making a gift or gifts of any monetary value to a county official, among others; and
- authorize the Secretary of State to revoke an agent's registration and to pursue civil penalties not to exceed \$1,500 for the failure to comply with, or a violation of, these provisions.

AB 2415 also provides that it would preempt and supersede all local ordinances on property tax agent registration. However, the bill would not prohibit a county from enacting an ordinance that would require property tax agents to report campaign contributions to elected officials in that county. According to the author, this legislation would improve the tax appeals process and create transparency by establishing a public registration process for property tax agents statewide.

Effective July 1, 2013, the County implemented its Tax Agent Registration Program which includes an annual registration process for all property tax agents practicing in Los Angeles County. The Executive Office of the Board reports that AB 2415 is very similar to the County's tax agent registration ordinance and indicates that the most notable difference is that the measure lacks the County's requirement for property tax agents to disclose campaign contributions. However, AB 2415 would allow any county to enact its own ordinance on this matter. The Executive Office of the Board also reports that other differences from the County's program specifically included in AB 2415 would: 1) bar registration of someone who has been convicted of a felony, while the County ordinance bars any criminal offenses; 2) not reiterate that tax agents have a duty to comply with all applicable State and local laws; and 3) not include the County's prohibition on property tax agent willfully assisting or encouraging a taxpayer to violate any law.

County Counsel notes that under AB 2415, the County's ordinance would need to be revoked and a separate, new ordinance for campaign reporting requirements be enacted. The Executive Office of the Board reports that, should a statewide property tax agent registration program be enacted, the County's program would need to be streamlined down to monitoring local property tax agent activities. Currently, the total annual budget to operate the County's Property Tax Agent Registration unit is approximately \$431,000, which is offset by tax agent registration fees. The Executive Office of the Board notes that if AB 2415 were enacted, in order to confirm that property tax agents practicing in the County are registered with the Secretary of State and to locally monitor campaign contribution reporting, their office would require some continued funding in order to maintain sufficient monitoring staff.

Specifically, the Executive Office of the Board staff would, on a semi-annual basis, provide the Registrar-Recorder/County Clerk (RR/CC) with data on tax agents registered with the Secretary of State and tax agents practicing in Los Angeles County. This is an important step in ensuring that the RR/CC is able to determine what campaign contributions tax agents have made to local elected officials and candidates for office. The Executive Office of the Board notes that to facilitate this

Each Supervisor  
April 14, 2014  
Page 6

continuing function, the County may want to request an amendment to require the Secretary of State to provide a county, upon request, a detailed list of registered tax agents in readable electronic format.

AB 2415 is substantially similar to AB 1151 of 2013, which as amended on May 7, 2013, would have required property tax agents to register biannually with the Secretary of State before representing a taxpayer before any county official. AB 1151 was held in the Assembly Appropriations Committee on May 24, 2014 and did not proceed.

There is no existing Board-approved policy related to the implementation of a statewide property tax agent registration program; therefore, County advocacy on AB 2415 is a matter of Board policy determination.

There currently is no registered support or opposition on file for AB 2415. This measure is currently in the Assembly pending assignment to committee.

This office will continue to work with the Executive Office of the Board and County Counsel to monitor this measure. We will keep the Board apprised of any developments.

We will continue to keep you advised.

WTF:RA  
MR:KA:IGEA:ma

c: All Department Heads  
Legislative Strategist